



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0513; FRL-9749-6]

Approval of Air Quality Implementation Plans; California; South Coast Air Quality Management District; Prevention of Significant Deterioration; Greenhouse Gases

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action under section 110 of the Clean Air Act (CAA) to approve a State Implementation Plan (SIP) revision for the South Coast Air Quality Management District (SCAQMD or District) portion of the California State Implementation Plan (SIP). This SIP revision incorporates District Rule 1714 – Prevention of Significant Deterioration for Greenhouse Gases into the California SIP. The submitted revision is a permitting rule that contains the Prevention of Significant Deterioration (PSD) permit program applicable to new and modified major stationary sources of greenhouse gases (GHGs) as required by Part C of title I of the Clean Air Act. In addition, upon the effective date of this action, the District is no longer subject to the Federal Implementation Plan (FIP) at 40 CFR 52.21 as it pertains to GHGs.

DATES: This rule is effective on [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established docket number EPA-R09-OAR-2012-0513 for this action. Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region IX, 75 Hawthorne Street (AIR-3), San Francisco, CA 94105, phone number (415) 972-3811, or by email at beckham.lisa@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Summary of Proposed Action

On August 29, 2012 (77 FR 52277), EPA proposed to approve the rule listed in Table 1 that was submitted for incorporation into the California SIP.

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted	Submitted
SCAQMD	1714	Prevention of Significant Deterioration for Greenhouse Gases	11/5/2010	12/30/2010

We proposed to approve this rule because we determined that it complied with the applicable CAA requirements. Our proposed rule and related Technical Support Document (TSD) contain more information on the basis for this rulemaking and our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed approval action for this SIP revision submittal provided a 30-day public comment period. During this period, we received no comments.

III. What Action is EPA Finalizing?

EPA is finalizing a SIP revision for the SCAQMD portion of the California SIP. This SIP revision will be codified in 40 CFR 52.220 by incorporating by reference District Rule 1714 listed in Table 1 above. In addition, the letter from the District to EPA dated August 15, 2012 that provides certain clarifications

concerning the District's rule, discussed in EPA's proposed rule for this action, will be included as additional material in 40 CFR 52.220. The regulatory text addressing this action also makes it clear that EPA is relying, in part, on the clarifications provided in the District's clarification letter in taking this final approval action. As such, the District's implementation of the PSD program in a manner consistent with these clarifications is a pre-condition of today's final approval of this PSD SIP revision. District Rule 1714 applies only to sources that trigger the PSD program for GHGs. This SIP revision provides a federally approved and enforceable mechanism for the District to issue pre-construction PSD permits for new and modified major stationary sources of GHGs within the District. The regulatory text at 40 CFR 52.270 is also being revised so that the SCAQMD is no longer subject to the FIP for the PSD program as it pertains to GHGs.

For pollutants other than GHGs that trigger the PSD program, the District will continue to administer the PSD program under the criteria and procedures in 40 CFR 52.21, 40 CFR Part 124 (including the opportunity to petition for review by EPA's Environmental Appeals Board), and the applicable PSD delegation agreement.

IV. Final Action

Under CAA sections 110(a), 110(l), and 165 and for the reasons set forth in our August 29, 2012 proposed rule, EPA is approving CARB's December 30, 2010 submittal of District Rule 1714 - Prevention of Significant Deterioration for Greenhouse Gases - into the California SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources of greenhouse gases.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the State and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of

this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: October 22, 2012

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 Approval and Promulgation of Implementation Plans

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220 is amended by adding new paragraph (c) (421) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(421) New regulations were submitted on December 30, 2010, by the Governor's designee. Final approval of this regulation is based, in part, on the clarifications contained in a August 15, 2012 letter from the South Coast Air Quality Management District regarding specific implementation of parts of the Prevention of Significant Deterioration program.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1714, "Prevention of Significant Deterioration for Greenhouse Gases," adopted on November 5, 2010.

(ii) Additional materials.

(A) South Coast Air Quality Management District (SCAQMD).

(1) Letter dated August 15, 2012 from Mohsen Nazemi, SCAQMD, to Gerardo Rios, EPA Region 9, regarding Clarifications for Rule 1714 - Prevention of Significant Deterioration for Greenhouse Gases.

3. Section 52.270 is amended by adding new paragraph (b)(10) to read as follows:

§52.270 Significant deterioration of air quality.

* * * * *

(b) * * *

(10) The PSD program for greenhouse gases (GHGs) in Rule 1714 for the South Coast Air Quality Management District (SCAQMD), as incorporated by reference in §52.220(c)(421), is approved under part C, Subpart 1, of the Clean Air Act. This approval is limited to sources subject to the PSD program for GHGs. The provisions of §52.21 (except paragraph (a)(1)) continue to apply to the SCAQMD for all pollutants subject to regulation, as defined in §52.21, except for GHGs.

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